IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2264 OF 2007

1.Smt.Yamunabai Narayan Tamhane
and others. ...Petitioners.

vs.

1.Pune Municipal Corporation
and another. ...Respondents.

Mr.N.V.Walawalkar, Sr.Advocate with Mr.G.H.Keluskar, for Petitioners.

Mr.R.G.Ketkar, for Respondent no.1.

Mr.Arun Palekar, AGP for Respondent no.2.

CORAM: D.K.DESHMUKH &

V.M.KANADE, JJ.

DATED: 20th NOVEMBER,2007.

P.C.:-

1. The learned Counsel appearing for petitioners, at the outset, stated that he restricts the petition to the relief claimed by prayer clause (d). By prayer clause (d), the

petitioners are seeking direction to the respondent no.1 to grant transferable development rights to them. The defence of the respondent no.1-Corporation is that regulation in relation to Transferable Development Rights were not applicable when the land was acquired under the Town Planning Scheme. In so far as the petitioners are concerned, the scheme was made final in the year 1989. The compensation was fixed by the Arbitrator in the year 1969. The Award of the Arbitrator has become final. Perusal of various provisions of the Act in particular the provisions of Section 64, 65 and 68 of Maharashtra Regional and Town Planning Act shows that grant of Transferable Development rights under the Regulation will be against the very scheme of the Act. Perusal of Section 72 of the Act shows that the Arbitrator has to estimate the compensation payable for the loss of area to the original owner. Therefore, what should be the amount of compensation payable for the loss of area is within the jurisdiction of the Arbitrator. In exercise of that jurisdiction the

Arbitrator has made the Award. That Award has become final and therefore, now the petitioners cannot ask the Corporation to grant Transferable Development rights in lieu of compensation. There is no substance in the petition, hence, it is rejected.

(D.K.DESHMUKH, J.)

(V.M.KANADE,J.)